

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

MARY E. LENTZ	:	Case No.: 01-CV-599
	:	
Plaintiff,	:	Judge Watson
	:	
v.	:	<b>DEFENDANT CINCINNATI INSURANCE</b>
	:	<b>COMPANY AND DAVID BALZANO’S</b>
	:	<b>AMENDED PROPOSED SPECIAL</b>
	:	<b>VERDICT FORMS CONTAINING</b>
	:	<b>SPECIFIC INTERROGATORIES</b>
CINCINNATI INSURANCE	:	
COMPANY	:	
	:	
and	:	
	:	
DAVID BALZANO	:	
	:	
Defendants.	:	

Pursuant to Rule 49(b) of the Federal Rules of Civil Procedure, Defendants Cincinnati Insurance Company (“CIC”) and David Balzano (“Balzano”) (collectively “Defendants”) submit the following AMENDED proposed verdict forms containing Special Interrogatories And Jury Verdict Form related to **Mary Lentz’s Title VII Gender Discrimination Claim Against Cincinnati Insurance Company**. Defendant offers this AMENDED proposal in order to accommodate Plaintiff’s proposed jury instruction to allow the Court to determine the appropriateness and amount of Plaintiff’s lost wage claim, recognizing that the law in this Circuit provides that this determination may be made by either the Court or the jury. Defendants respectfully request that the Court provide these to the jury, as well as those Special Interrogatories And Jury Verdict Form previously submitted related to: (1) Mary Lentz’s Claims Against David Balzano and (2) Counterclaim Of Cincinnati Insurance Company Against Mary Lentz, and require that they be completed by the jury during its deliberation. Defendant reserves

the right to modify, delete, or supplement the proposed special verdict forms based upon this Court's rulings on issues raised in Trial Briefs or motions *in limine* or based upon the evidence at trial.

Because of the complexity of the issues before the jury, with separate claims being addressed to separate defendants and a counterclaim addressed to Plaintiff, Defendants believe that it is necessary that the jury be clearly asked to express their decision as to each element of each claim against the appropriate party. Defendants believe that this process will ensure clarity in the jury's decision-making process, so that it will be clear at the end of that process how the jury arrived at whatever decision it arrived at. The uses and benefits of special interrogatories have been described by the United States Court of Appeals for the Sixth Circuit as follows:

Rule 49(b), on the other hand, allows the court to submit to the jury the appropriate forms for a general verdict, in addition to written interrogatories on one or more issues of fact. *Id.* § 2511, at 521; Fed.R.Civ.P. 49(b). The general verdict with interrogatories may be viewed as a middle ground between the special verdict and the general verdict, although it does have some unique virtues. The general verdict with interrogatories affects the *weight* given to certain factors; it requires the jury "to give close attention to the *more important* issues and their answers serve to check the propriety of the general verdict." *Id.* (emphasis added). n11 It is in the court's discretion whether to submit written interrogatories in connection with a general verdict. *Id.* § 2512, at 523. The court has a similar discretion in deciding not only what issues to submit, if it chooses to use Rule 49(b), but also in choosing the form in which these issues are submitted. *Id.* This decision should be made before the case is submitted to the jury and as with the special verdicts, counsel should: first, be notified that Rule 49(b) will be used; and second, be provided with an opportunity to review the interrogatories. In addition, judicial economy is advanced through the use of written interrogatories. Because the jury's analysis is identified in their responses to the written questions, the potential for a new trial is diminished.

*Portage II v. Bryant Petroleum Corp.*, 899 F.2d 1514, 1520 (6<sup>th</sup> Cir. 1990).

If the Court finds one sentence or paragraph in these special verdict forms improper, Defendant asks that the Court provide the Defendants with an opportunity to revise the form accordingly.

Respectfully submitted,

/s/ Jack B. Harrison  
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Trial Attorneys For Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that on May 29, 2005, a copy of the foregoing, Defendants' AMENDED Proposed Special Interrogatories and Verdict Forms were filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be mailed via U.S. Mail to those parties who are not served via the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Jack B. Harrison

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

MARY E. LENTZ	:	Case No.: 01-CV-599
	:	
Plaintiff,	:	Judge Watson
	:	
	:	
v.	:	<b>SPECIAL INTERROGATORIES AND</b>
	:	<b>JURY VERDICT FORM RELATED TO</b>
CINCINNATI INSURANCE	:	<b>MARY LENTZ’S TITLE VII GENDER</b>
COMPANY, et al.	:	<b>DISCRIMINATION CLAIM AGAINST</b>
	:	<b>CINCINNATI INSURANCE COMPANY</b>
Defendants.	:	

GENDER DISCRIMINATION CLAIM  
AGAINST CINCINNATI INSURANCE COMPANY

INTERROGATORY NO. 1(a).

Has Ms. Lentz proven by a preponderance of the evidence that Cincinnati Insurance Company’s explanation for her discharge was not the real reason?

(Your answer must be unanimous. If you determine the evidence is equally balanced, you must answer “No.”)

Yes \_\_\_\_\_

No \_\_\_\_\_

\_\_\_\_\_  
Foreperson

If you answered “No” to Interrogatory No. 1(a) and you have also completed the Interrogatories related to Mary Lentz’s claims against David Balzano and CIC’s claim against Mary Lentz, your deliberations are now over and you should return to the Courtroom with the Special Interrogatories and Verdict Form (pages \_\_\_\_\_).

If you answered “Yes” to Interrogatory No. 1(a), please proceed to Interrogatory No. 1(b).

**INTERROGATORY NO. 1(b).**

Has Ms. Lentz proven by a preponderance of the evidence that Cincinnati Insurance Company’s real and intentional reason for discharging her was because she is female?

(Your answer must be unanimous. If you determine the evidence is equally balanced, you must answer “No.” If you find that Cincinnati Insurance Company had an honest belief in its stated reason for discharging Ms. Lentz, you must answer “No.”)

Yes \_\_\_\_\_

No \_\_\_\_\_

\_\_\_\_\_  
Foreperson

**If you answered “No” to Interrogatory No. 1(b) and you have also completed the Interrogatories related to Mary Lentz’s claims against David Balzano and CIC’s claim against Mary Lentz, your deliberations are now over and you should return to the Courtroom with the Special Interrogatories and Verdict Form (pages \_\_\_\_\_).**

**If you answered “Yes” to Interrogatory No. 1(b), please proceed to Interrogatory No. 2.**

**INTERROGATORY NO. 2.**

Has Ms. Lentz proven by a preponderance of the evidence that she has suffered actual compensatory damages from any mental anguish and humiliation resulting from gender discrimination in termination that can be calculated with reasonable certainty and without guesswork or speculation?

(Your answer must be unanimous. If you determine the evidence is equally balanced, you must answer “No.”)

Yes \_\_\_\_\_

No \_\_\_\_\_

\_\_\_\_\_  
Foreperson

**If you answered “No” to Interrogatory No. 2, and you have also completed the Interrogatories related to Mary Lentz’s claims against David Balzano and CIC’s claim against Mary Lentz, your deliberations are now over and you should return to the Courtroom with the Special Interrogatories and Verdict Form (pages \_\_\_\_\_).**

**If you answered “Yes” to Interrogatory No. 2, please proceed to Interrogatory No. 3.**

**INTERROGATORY NO. 3**

Please indicate on the line provided the amount of compensatory damages, if any, that you have unanimously determined will fairly compensate Ms. Lentz for any mental anguish and humiliation that Ms. Lentz has proven she suffered as a direct result of gender discrimination in termination.

\$ \_\_\_\_\_

\_\_\_\_\_  
Foreperson

**Please proceed to Interrogatory No. 4(a).**

**INTERROGATORY NO. 4(a).**

Has Ms. Lentz proven by a preponderance of the evidence that Cincinnati Insurance Company acted with malice or with reckless indifference to her federal rights?

(Your answer must be unanimous. Unless Ms. Lentz proved conscious wrongdoing on the part of Cincinnati Insurance Company, you must answer “No.” If you determine the evidence is equally balanced, you must answer “No.”)

Yes \_\_\_\_\_

No \_\_\_\_\_

\_\_\_\_\_  
Foreperson

**If you answered “Yes” to Interrogatory No. 4(a), please proceed to Interrogatory No. 4(b).**

**If you answered “No” to Interrogatory No. 4(a), and you have also completed the Interrogatories related to Mary Lentz’s claims against David Balzano and CIC’s claim against Mary Lentz, your deliberations are now over and you should return to the Courtroom with the Special Interrogatories and Verdict Form (pages \_\_\_\_\_).**



**INTERROGATORY NO. 4(b).**

Has Cincinnati Insurance Company demonstrated that it engaged in good faith efforts to comply with anti-discrimination law by implementing and enforcing a written anti-discrimination policy in its workplace?

Yes \_\_\_\_\_

No \_\_\_\_\_

\_\_\_\_\_  
Foreperson

**If you answered “Yes” to Interrogatory No. 4(b) and you have also completed the Interrogatories related to Mary Lentz’s claims against David Balzano and CIC’s claim against Mary Lentz, your deliberations are now over and you should return to the Courtroom with the Special Interrogatories and Verdict Form (pages \_\_\_\_\_).**

**If you answered “No” to Interrogatory No. 4(b), please proceed to Interrogatory No. 5.**

**INTERROGATORY NO. 5.**

**Answer this Interrogatory No. 5 only if:**  
**(1) you answered “Yes” to Interrogatory No. 4(a) and “No” to Interrogatory 4(b).**

Please indicate on the line provided the amount, if any, that you have unanimously determined to award in punitive damages for your finding of gender discrimination in termination.

\$\_\_\_\_\_

\_\_\_\_\_  
Foreperson

**If you have also completed the Interrogatories related to Mary Lentz’s claims against David Balzano and CIC’s claim against Mary Lentz, your deliberations are now over and you should return to the Courtroom with the Special Interrogatories and Verdict Form (pages \_\_\_\_\_).**